

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MICHAEL TROY OLSON,

Petitioner,

v.

ORDER

Civil File No. 15-3144 (MJD/FLN)

DENISE WILSON, WARDEN,

Respondent.

Michael Troy Olson, pro se.

Lisa D. Kirkpatrick, Assistant United States Attorney, Counsel for Respondent.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel filed January 7, 2016. Petitioner Michael Troy Olson filed objections to the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Additionally, the Court notes that, on January 8, 2016, the day after the Report and Recommendation was filed, the Eighth Circuit Court of Appeals denied Olson's request for authorization to

file a successive § 2255 petition based on United States v. Johnson, 135 S. Ct. 2551 (2015). The appellate court held that Johnson did not apply to Olson's classification as a career offender because he had three previous convictions that were properly classified as violent felonies under the elements clause or enumerated clause of the Armed Career Criminal Act. In the Eighth Circuit, "a § 2255 motion is not inadequate or ineffective merely because: (1) § 2255 relief has already been denied, (2) [the] petitioner has been denied permission to file a second or successive § 2255 motion, [or] (3) a second or successive § 2255 motion has been dismissed." Hill v. Morrison, 349 F.3d 1089, 1091 (8th Cir. 2003) (citation omitted).

Based upon the Court's de novo review, the Court adopts the Report and Recommendation of United States Magistrate Judge Noel filed January 7, 2016, and holds that this Court is without jurisdiction to consider Olson's current § 2241 petition.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Franklin L. Noel filed January 7, 2016 [Docket No. 12].
2. Petitioner's Motion to File a Reply [Docket No. 17] is **GRANTED**.

3. Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 [Docket No. 1] is **DENIED** and this matter is **DISMISSED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 8, 2016

s/ Michael J. Davis

Michael J. Davis

United States District Court